UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1998/SR.59
5 November 1998

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 59th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 22 April 1998, at 3 p.m.

Chairman: Mr. SELEBI (South Africa)

later: Mr. GALLEGOS CHIRIBOGA (Ecuador)

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GE.98-12584 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF DRAFT RESOLUTIONS UNDER AGENDA ITEMS 9 AND 10 (continued)

Draft resolution E/CN.4/1998/L.41 (Enhancement of international cooperation in the field of human rights)

1. Mr. CASTRO GUERRERO (Observer for Colombia) said that the sponsors of the draft resolution had decided, following the Chairman's appeal for consensus, to amend the text by deleting the second preambular paragraph, the reference to General Assembly resolution 51/100 and operative paragraphs 1 and 4. He hoped that those substantive amendments would enable a consensus to be reached and that the parts which had been deleted could be discussed in the near future in a more favourable climate of opinion.

2. Mr. McALISTER (Canada) expressed regret that it had not been possible to achieve agreement on the enhancement of international cooperation, when the Commission at its previous session and the General Assembly in December 1997 had reached an understanding on that issue. If there were a vote, his delegation would be unable to support the draft resolution.

3. Mr. REYES RODRIGUEZ (Cuba) said he failed to understand why the delegation of Canada could not accept the draft resolution as amended, in view of the fact that the controversial points had been deleted and the remaining text resembled that adopted by the General Assembly.

4. Following a discussion in which Mr. REYES RODRIGUEZ (Cuba), Mr. LOFTIS (United States of America), Mr. CASTRO GUERRERO (Observer for Colombia) and Mr. HÖYNCK (Germany) took part, the CHAIRMAN proposed that further consideration of the draft resolution should be postponed.

5. It was so decided.

6. Mr. Gallegos Chiriboga (Ecuador) took the Chair.

Draft resolutions under agenda item 10 (E/CN.4/1998/L.86/Rev.1, L.100 and L.105)

Draft resolution E/CN.4/1998/L.86/Rev.1 (Situation of human rights in Bosnia and Herzegovina, Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro))

7. Mr. KUEHL (United States of America) said that the words "Saint Egidio" should be inserted before "memorandum of understanding" in paragraph 25 (g) of the draft resolution.

8. Mrs. KLEIN (Secretary of the Commission) announced that Ireland and the Islamic Republic of Iran should be added to the list of sponsors.

9. Ms. BECIREVIC (Observer for Croatia) pointed out that the draft resolution dealt simultaneously with the situation of human rights in Bosnia and Herzegovina, in Croatia and in the Federal Republic of Yugoslavia and presented in section I the "core problems" arising "in the region" as a whole;

she would have preferred a more balanced approach, expressly highlighting the differences between the countries with regard to the establishment of democratic institutions and setting out the levels of cooperation of each of the countries with the international community. Noting that the draft resolution contained, as in previous years, a paragraph on the "rules of the road" which had been agreed upon in Rome, she stressed that those measures were applicable only to the territory of Bosnia and Herzegovina and, according to international law, could not be extended to the territory of a third country.

10. Her delegation was surprised that the draft resolution should assign to the Republic of Croatia the major responsibility in the solution of the humanitarian problem of missing persons, in contradiction with the conclusion of the Special Rapporteur who, in her final report, had clearly indicated which country was most lacking in political will to share all information on the fate of missing persons. It should not be forgotten that it had been Croatia which in the past had recommended actions to ensure a speedy and complete exchange of information on missing persons.

11. Generally speaking, the draft resolution did not sufficiently reflect the positive measures by the Government of Croatia to protect and promote human rights, and for all those reasons, the delegation of Croatia was unable to sponsor it. It had been actively involved, however, in its drafting and acknowledged that some of its concerns had been taken into consideration.

12. Mr. COMBA (Secretariat), presenting the financial implications of the draft resolution, said that the establishment of a temporary office of the High Commissioner for Human Rights operating out of permanent premises in Kosovo would be covered by transfers of resources and that all additional expenditures would be financed by extrabudgetary contributions. An amount of $99,000, corresponding to the extension of the Special Rapporteur's mandate for one year, had been entered in section 22 (Human rights) of the 1998-1999 programme budget.

13. Mr. BOYTCHENKO (Russian Federation), speaking in explanation of vote before the vote, began by noting with satisfaction that consultations on the draft resolution under consideration had been conducted in conditions of great transparency. His delegation had taken an active part in the work in the hope that the draft resolution could be adopted by consensus. It contained many very positive aspects and rightly stressed the importance of the role of the Special Rapporteur.

14. His delegation was nevertheless dissatisfied with the general balance of the draft and the focus of some of its provisions, in particular the sections on the Federal Republic of Yugoslavia and the International Criminal Tribunal. To begin with, the name given to the Federal Republic of Yugoslavia should be that used in Security Council resolutions. His delegation also had difficulty accepting certain inaccurate assessments of the situation in the Federal Republic of Yugoslavia, in particular respect for rights and freedoms, the functioning of civil society, the activities of the media and the situation of minorities. It was also concerned about the references to Kosovo and drew attention to the statement by the Chairman of the Commission, which was objective and balanced and made it possible to guarantee the protection of

rights and freedoms in that part of the Republic of Serbia in the Federal Republic of Yugoslavia. The draft resolution was not consistent with that text or with Security Council resolution 1160 (1998); it gave an incorrect description of events and did not adequately reflect the initiatives taken by the Belgrade authorities or the enormous increase in acts of terrorism, or present the situation constructively.

15. With regard to the International Criminal Tribunal for the Former Yugoslavia, the Commission had overstepped its mandate since it was for the Security Council to assess the Tribunal's activity and give it instructions.

16. For all those reasons, the delegation of the Russian Federation requested a separate roll-call vote on paragraphs 22, 25, 29 (b), 30, 33 and 35 taken together, which it would vote against. It also requested a roll-call vote on the draft resolution as a whole, in which it would abstain.

17. Mr. XIE BOHUA (China) said that for his Government Kosovo was part of the territory of the Federal Republic of Yugoslavia. The question of Kosovo should be settled rapidly through political negotiation by the parties concerned in respect for the principle of the sovereignty and territorial integrity of the Federal Republic of Yugoslavia. Because the Balkan countries comprised several ethnic groups, the situation in the region was very delicate and extreme prudence was required. His delegation would therefore abstain from the vote.

18. At the request of the representative of the Russian Federation, a vote was taken by roll-call on paragraphs 22, 25, 29 (b), 30, 33 and 35.

19. Tunisia, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Bangladesh, Bhutan, Botswana, Brazil, Canada, Chile, Czech Republic, Denmark, Ecuador, El Salvador, France, Germany, Ireland, Italy, Japan, Luxembourg, Malaysia, Morocco, Mozambique, Nepal, Pakistan, Peru, Philippines, Poland, Republic of Korea, Senegal, Sudan, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: Belarus, Russian Federation.

Abstaining: Cape Verde, China, Cuba, Democratic Republic of the Congo, Guatemala, Guinea, India, Indonesia, Madagascar, Mali, Mexico, Rwanda, South Africa, Sri Lanka, Tunisia.

20. Paragraphs 22, 25, 29 (b), 30, 33 and 35 were adopted by 35 votes to 2, with 15 abstentions.

21. At the request of the representative of the Russian Federation, a vote was taken by roll-call on draft resolution E/CN.4/1998/L.86/Rev.1 as a whole.

22. Ecuador, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Bangladesh, Bhutan, Botswana, Brazil, Canada, Chile, Czech Republic, Denmark, Ecuador, El Salvador, France, Germany, Guatemala, Indonesia, Ireland, Italy, Japan, Luxembourg, Malaysia, Mali, Mexico, Morocco, Mozambique, Nepal, Pakistan, Peru, Philippines, Poland, Republic of Korea, Senegal, South Africa, Sudan, Tunisia, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: None.

Abstaining: Belarus, Cape Verde, China, Congo, Cuba, Democratic Republic of the Congo, Guinea, India, Madagascar, Russian Federation, Rwanda, Sri Lanka.

23. Draft resolution E/CN.4/1998/L.86/Rev.1, as orally amended, was adopted by 41 votes to none, with 12 abstentions.

Draft resolution E/CN.4/1998/L.100 (Situation of human rights in the Islamic Republic of Iran) and amendments proposed with the symbol E/CN.4/1998/L.105 (continued)

24. Mrs. KLEIN (Secretary of the Commission) announced that Japan had requested to be taken off the list of sponsors of the draft resolution.

25. Mr. COMBA (Secretariat), presenting the financial implications of the draft resolution, said that the extension of the mandate of the Special Representative of the Commission on the situation of human rights in the Islamic Republic of Iran would entail expenditures amounting to 67,200 dollars in 1998 and 1999; provision for that amount had already been made in section 22 (Human rights) of the 1998-1999 programme budget.

26. Mr. AKRAM (Pakistan) said that the Islamic countries which had sponsored the amendments to the draft resolution proposed in document E/CN.4/1998/L.105 had revised their text by deleting paragraph 2. The consultations between the sponsors of the draft resolution and the sponsors of the proposed amendments had unfortunately shown that the proposals by the latter made in a spirit of compromise had not been accepted by the former, who were not apparently prepared to modify the general thrust of their text.

27. As Coordinator of the Working Group on human rights of the Organization of the Islamic Conference (OIC), he wished to stress that the draft resolution was incorrect, exaggerated and based on false assumptions on a number of points. It also contained unacceptable expressions - for example, in paragraph 2 (a), the Government of the Islamic Republic of Iran was urged "to meet expectations for tangible progress" in human rights, without further details. Equally unacceptable was paragraph 3 (d), where the Commission expressed its concern "at the lack of continuity in the cooperation of the Government with the mechanisms of the Commission on Human Rights" and

subparagraphs (h) and (i) of paragraph 4. The member States of the Organization of the Islamic Conference considered that the situation of human rights in the Islamic Republic of Iran was no worse than in many other countries for which no draft resolution had been submitted. He observed that the Islamic Republic of Iran was currently chairing the OIC Summit and that the Commission's work had in the past already led to insulting attacks on Islam. The member States of the OIC hoped that in the future such discriminatory selectiveness vis-à-vis the Muslim countries would cease.

28. In a spirit of compromise, the sponsors of the amendments to the draft resolution had decided not to ask the Commission to take a decision on their proposal. His delegation therefore requested a roll-call vote on the draft resolution and would vote against it.

29. Ms. GLOVER (United Kingdom) thanked the delegation of Pakistan for withdrawing the amendments proposed in document E/CN.4/1998/L.105. She hoped that in the future it would be possible to achieve the consensus which had unfortunately eluded the Commission at the current session.

30. Mr. KHORRAM (Observer for the Islamic Republic of Iran) said that the Commission had already been informed about positive developments in the human rights situation in his country. Since entering office in August 1997, the new President had taken a number of initiatives to consolidate democracy, provide for more active civil and political participation, reinforce the rule of law, promote women's rights, foster national mechanisms for the protection and promotion of fundamental rights and further ensure freedom of expression. While not claiming that the human rights situation was perfect, the Government could solemnly assert that it had already done a great deal and intended to continue on the road to progress.

31. Unfortunately, draft resolution E/CN.4/1998/L.100 failed to recognize those realities and was inspired solely by political and economic interests. It focused mainly on isolated incidents and was too long and repetitive and contained factual errors which indicated that its sponsors were either misinformed or were trying to mislead the Commission. Above all, it did not reflect the remarkable undertakings of the Government of the Islamic Republic of Iran in the area of human rights. The Special Representative of the Commission on the situation of human rights in the Islamic Republic of Iran had stated, in introducing his report to the Commission, that he hoped it would adopt a resolution on the Islamic Republic of Iran which would not be bogged down in details and would reflect, and indeed welcome, the prospect of substantial change that was clearly evident in that dynamic society. When the sponsors were told that their draft resolution was not consistent with the report of the Special Representative, their response, as in 1997, was that they had "other sources of information". If that was so, why did they not pass their information on to the Special Representative so that he could verify it and seek clarification from the Government? Would it not be fair at least to give the Government a chance to defend itself before putting allegations into a draft text? The Islamic Republic of Iran had also already argued that under the 1503 confidential procedure the Working Group on Communications considered allegations and Governments were given an

opportunity to respond. In the case of situations examined by a special rapporteur or a special representative under agenda item 10, it was for that rapporteur or representative to review the allegations.

32. From the start of the session, his delegation had informed the sponsors of the draft resolution that it would be ready to have a consensus text in the form of a Chairman's statement instead of a resolution. Regrettably, however, there was a lack of political will to negotiate.

33. In conclusion, the draft resolution only marked the over-politicization of human rights in general and of the Commission in particular. Whatever decision was taken, the Government and people of the Islamic Republic of Iran would continue their efforts for the promotion and protection of human rights. His delegation therefore requested the Commission to vote against the draft which, if adopted, would not facilitate cooperation with the Special Representative.

34. Mr. SYAHRUDDIN (Indonesia) said that it was important to keep in mind the realities of the Islamic Republic of Iran and the progress everyone had witnessed in the sphere of the rule of law and fundamental rights since the previous year. The Special Representative had stressed the efforts made by the Government, particularly in encouraging wide-ranging public discussion. If the Commission adopted draft resolution E/CN.4/1998/L.100 it would not be giving encouragement to the Government of the Islamic Republic of Iran. If the proposed text was put to the vote, his delegation would vote against it.

35. Mr. CHOWDHURY (Bangladesh) said he particularly regretted that the draft under consideration came from Europe, which knew more than any other region about revolutions and social ferment for change. In the Islamic Republic of Iran there had been positive developments in all areas, including human rights. Persia had a civilization dating back 4,000 years, representing an illustrious culture which had always moved at its own pace, sometimes with extreme rapidity and sometimes almost imperceptibly. The Commission should take account of such aspects and give President Khatemi time to allow his commitments to materialize. The Iranian delegation's constructive contribution to the Commission's session also merited reward. His delegation considered that the draft resolution would in no sense help the Islamic Republic of Iran to develop positively and would vote against it.

36. Mr. XIE BOHUA (China) said that the Commission should recognize the efforts made in human rights in recent years by the Islamic Republic of Iran, whose Government had hosted the Sixth Workshop for Regional Arrangements for the Promotion and Protection of Human Rights in the Asia and Pacific Region. Since the draft resolution had not obtained a consensus and since it did not encourage dialogue with the Government of the Islamic Republic of Iran, his delegation opposed it.

37. Ms. GLOVER (United Kingdom), speaking on behalf of the European Union countries and the other sponsors of the draft resolution, said that there had been improvements in some aspects of the human rights situation in the Islamic Republic of Iran and the Government had announced more changes. Those changes

were reflected in the report of the Special Representative and also in the draft resolution, which welcomed the Government's declarations concerning the need to review laws and attitudes which discriminated against women and improvements in the area of freedom of expression. However, the Special Representative had stated clearly in his report that problems persisted and that there were cases of torture and cruel, inhuman or degrading treatment or punishment. He had referred especially to the increase in the number of amputations and stonings decided by the courts. Change in the situation of women and in the situation of Baha'is was also urgently needed. The Special Representative himself had not been allowed to visit the country.

38. Any resolution on human rights in the Islamic Republic of Iran must recognize the good and the bad, encourage improvements and point out continuing problems. Some delegations had argued that if the Commission considered every isolated human rights violation, the list of the countries concerned would be very long, but it was clear that the problems in the Islamic Republic of Iran were not isolated incidents but formed a pattern. Her delegation hoped that in the future the Commission could arrive at a consensus on the question.

39. Mr. HÖYNCK (Germany) said that, as in certain other cases, the Commission was facing the difficult task of welcoming the progress observed in respect for human rights while making it clear that violations continued. The draft resolution precisely reflected that delicate balance and was consistent with the report of the Special Representative. His delegation therefore urged the Commission to adopt that important text.

40. Mr. EL DIN HAMID YOUSIF (Sudan) said that concern for cooperation should always be the rule and not the exception in all the Commission's work on human rights in all countries. Since, according to the information supplied by the Special Representative and the Government of the Islamic Republic of Iran, there had been recent progress in the country, the Commission should take it into consideration. His delegation was therefore opposed to draft resolution E/CN.4/1998/L.100.

41. Mr. PARSHIKOV (Russian Federation) said it seemed that the sponsors of the draft resolution had not done everything in their power to produce a consensus text which would have taken account of recent progress in human rights in the Islamic Republic of Iran and which could have included paragraphs 1, 3 and 11 of the amendments proposed in document E/CN.4/1998/L.105. His delegation also shared the concerns which the delegation of Mexico had expressed the previous day concerning the lack of transparency marking the preparation of the draft resolution. It hoped that the matter would be remedied in the future and that the Commission would eventually be able to adopt a draft resolution by consensus.

42. At the request of the representative of Pakistan, a vote was taken by roll-call on draft resolution E/CN.4/1998/L.100.

43. Uruguay, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Botswana, Brazil, Canada, Chile, Czech Republic, Denmark, Ecuador, El Salvador, France, Germany, Guatemala, Ireland, Italy, Japan, Luxembourg, Peru, Poland, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Against: Bangladesh, Bhutan, China, Congo, Cuba, Guinea, India, Indonesia, Malaysia, Mali, Morocco, Pakistan, Philippines, Sudan.

Abstaining: Belarus, Cape Verde, Democratic Republic of the Congo, Madagascar, Mexico, Mozambique, Nepal, Republic of Korea, Rwanda, Senegal, South Africa, Sri Lanka, Tunisia, Uganda, Ukraine, Uruguay.

44. Draft resolution E/CN.4/1998/L.100 was adopted by 23 votes to 14, with 16 abstentions.

The meeting was suspended at 4.20 p.m. and resumed at 4.25 p.m.

45. Mr. Selebi (South Africa) resumed the Chair.

The meeting rose at 4.30 p.m.